

## PROGRAM FOR REGULARIZATION OF THE CADASTRE AND PROPERTY REGISTRY

(CR-0134)

### EXECUTIVE SUMMARY

<b>Borrower:</b>	Republic of Costa Rica	
<b>Executing agency:</b>	Ministry of Finance, through an executing unit <sup>1</sup>	
<b>Financing:</b>	IDB (OC):	US\$65 million
	Local counterpart:	US\$27 million
	Total:	US\$92 million
<b>Terms and conditions:</b>	Amortization period:	20 years
	Disbursement period:	5 years
	Interest rate:	variable
	Inspection and supervision:	1%
	Credit fee:	0.75%
	Currency:	United States dollar
<b>Issue to be resolved:</b>	<p>Despite Costa Rica's efforts in recent years to modernize the cadastre and registry system, the country lacks a technically developed and legally established cadastre covering the entire national territory, adequately reflecting the legal status of real estate. Moreover, there are major discrepancies between the cadastre information and the information in the Real Property Registry, primarily in rural areas. While there are close to 1.2 million registered parcels in the country, there are almost 1.6 million cadastre plans (plat maps), many of them inconsistent and out of date as to their actual legal status. It is estimated that 40% of the physical plats contained in the National Cadastre involve multiple registration or titling. Thus, there are approximately 400,000 erroneous documents filed in the Real Property Registry, the registered parcels in question representing more than 20% of the total area of the national territory. This situation</p>	

---

<sup>1</sup> The following institutions will be in charge of technical supervision of the program, through the executing unit: the National Registry, National Cadastre, Real Property Registry, Bureau of Municipal Development and Support (IFAM), Technical Standardization Agency (ONT/Ministry of Finance), Ministry of the Environment and Energy (MINAIE), Department of Alternative Dispute Resolution of the Ministry of Justice, National Geographic Institute (IGN), Bureau of Agricultural Development (IDA) and the Inter-agency Commission on Indigenous Affairs (CIAI).

reveals the overlapping and duplication of physical plats and property titles, discrepancies in title, and boundary conflicts. Furthermore, encumbrances on property are held in connection with mining, forests, aquifers, land management plans, for example, by the National Technical Office for the Environment, the Water and Sewerage Authority, municipalities and other government agencies that do not appear in the Registry. These discrepancies lead to a lack of transparency in the real estate market, uncertainty and high transaction costs, since prospective buyers have to verify any encumbrances on their own in each case. As a result, real property rights in the country lack legal certainty.

**Objectives:** The purpose of the program is to improve the climate for public and private investment in Costa Rica. Thus, the program's main objective is to strengthen the legal security of real property rights.

**Description:** The program consists of the following three components, which together will achieve the program objective: (1) establishment of the National Cadastre and its reconciliation with the Registry; (2) prevention and resolution of disputes over real property rights, and (3) municipal strengthening in the use of cadastral information.

To ensure that the reconciled cadastre-registry system established under the program is sustainable over time, and in order for the information from the National Land Information System (SNIT) to be regularly updated, legal and regulatory changes will be necessary. These changes will be tied contractually to the program by means of the Bank authorizations for calls for bids for the establishment of the Cadastre and its reconciliation with the registry in nine of the 13 cadastral areas into which the country would be divided (see Contractual Conditions).

**Component 1: Establishment of the National Cadastre for real property and its reconciliation with the Property Registry (US\$50.4 million).** The purpose of this component is to establish a cadastre of all the parcels in the country, properly georeferenced, and to reconcile this information with the Real Property Registry. Upon program completion, each of the existing parcels in the country is expected to have a single record issued by the new Real Property Registry with written and graphic information that will ensure the legal and geographic identity of each parcel. As a key factor in attaining the program goals and a condition for this component to be fully implemented, the country's current legal and regulatory framework concerning real property rights must be overhauled. Accordingly, and as described in paragraph 2.13, the cadastral survey will initially be carried out in four of the 13 cadastral areas into which the country would be divided. At the same time, the government will

take all the necessary measures to foster reform of the legal and regulatory framework so as to ensure the sustainability of the Cadastre-Registry system. Once the legal and regulatory framework has been adjusted the cadastre will be established in the remaining nine cadastral areas. In addition, the necessary institutional restructuring will be carried out to achieve deconcentration of the Cadastre-Registry system.

**Component 2: Prevention and resolution of disputes over real property rights (US\$9.3 million).** The purpose of this component is to improve the legal security of property rights, through expeditious resolution of disputes that may arise during the cadastral survey and by establishing appropriate alternative dispute resolution methods. Means of prevention include the implementation of procedures to regulate areas under special regimes (protected areas, tribal lands, the Maritime Land Zone), based on census data analysis, participatory processes and the formulation and implementation of pilot programs to improve land use and management.

**Component 3: Municipal strengthening in the use of cadastral information (US\$10 million).** This component supports the establishment of a property tax cadastre to maximize the collection of property taxes by municipalities and to help improve management of municipal government resources.

**The Bank's  
country and  
sector strategy:**

Under the Bank's Eighth General Increase in Resources, priority was given to the modernization of public services, identifying mechanisms for technological innovation to increase efficiency, public sector reform to improve services, and training and extension activities to strengthen local government. Updating the Cadastre, reconciling it with the Registry and deconcentrating administration of the system to local governments will support the fiscal sustainability of the municipalities, allowing for local investment in public goods. The proposed program will also help increase private investment by affording greater security for rural property titles, which would invigorate the land market. Moreover, a reliable cadastre-registry system would provide the foundation for land use management.

**Environmental  
and social  
review:**

In general, the program will have a positive environmental impact to the extent that it attains the targets of improving the database, demarcation of protected areas for management purposes and operation of the land use management system. Identifying the ownership of natural resources is a key requirement for sustainable management of those resources. As to social impact, the program seeks to resolve conflicts on the use and tenure of land in rural areas, which would help improve living conditions for small farmers currently living on irregular settlements without land titles under the authority of the Bureau of Agricultural Development (IDA).

**Benefits:** Strengthening the legal security of real property rights as a result of the program will yield the following benefits: (i) an increase in private investment, which will raise general levels of employment and income nationwide; (ii) an increase in the provision of public services thanks to higher tax collections; (iii) a reduction in transaction costs for users, reducing Cadastre and Registry processing times; and (iv) revitalization of the land market.

By providing for a Cadastre that is reconciled with the Registry, distinguishing private ownership and public ownership of protected areas with natural resources deemed in the public interest and national reserves, the program will have the following additional benefits: (i) increased availability of services thanks to higher tax collections to enhance such services; (ii) improved sustainable, rational management of natural resources by private owners and greater capacity on the part of government agencies to protect such resources; and (iii) a more efficient and effective Judicial Branch with respect to real property rights, thanks to the availability of reliable information and documentation and the availability of specialized services for alternative dispute resolution (ADR) concerning real property rights.

**Risks:** Modernization of processes and institutional restructuring of the National Registry are needed in order for the SNIT to be properly managed, thereby improving the legal security of real property ownership. Thus, continuity in the government's commitment to the proposed program, including the necessary transformation of the National Registry, is a key factor for the program's success.

Attainment of the program objectives is closely tied to the legal and regulatory reform of the country's current legislation on real property rights and their formalization. Consequently, immediate implementation of the legal and regulatory changes by the country's executive and legislative branches is a condition for achieving the legal security of real property rights. Accordingly, the Bank and the government have adopted the strategy of making a substantial portion of the program's investments (especially under Component 1) contingent upon legislative approval and administrative implementation, as the case may be, of the legal, regulatory and institutional modification of the country's Real Property Registry system.

Another potential risk to be considered involves the possible reluctance of certain property owners and landholders without title to clear their titles, fearing that they will then have to pay property taxes. Accordingly, local awareness campaigns have been proposed to explain to the population the advantages to the country as a whole of having reliable, up-to-date and complete information on land tenure, in addition to the individual benefits of the legal security of real

property rights and the benefits to the community as a result of better municipal management. These campaigns, together with the legal reforms instituting mandatory property registration, should be sufficient to increase demand for formalization of real property rights on a sustainable basis.

**Special  
contractual  
conditions:**

The program's special conditions, fulfillment of which will be evaluated in accordance with the terms previously agreed with the Bank and set forth in Annex A to the loan contract, are as follows:

*Prior to the first disbursement*, in addition to the standard Bank conditions, the borrower must fulfill the following conditions:

- (i) The resolution adopted by the Civil Service Office approving the restructuring of the National Property Registry, under which the functions of the National Cadastre and the Property Office are integrated and establishing regional offices must be published in *La Gaceta* (paragraph 2.12).
- (ii) An executive decree dividing the country into the 13 cadastral areas agreed upon for execution of the program must be published (paragraph 2.13).
- (iii) The executing unit (EU) must be established, by means of the law approving the proposed loan, as a deconcentrated unit attached to the Ministry of Finance, with administrative, technical and financial autonomy, an independent budget, and the authority to carry out competitive bidding, enter into contracts and make disbursements under the program, and must be operational. The EU must have the structure, functions, and procedures set forth in the Operating Regulations of the program (paragraph 3.3).
- (iv) The inter-agency framework agreement must be signed by the EU, the Ministry of Justice, and the other agencies participating in the program, and must have entered into force. Under the agreement: (i) the Operating Regulations of the program will be an integral part of the agreement and will enter into force; (ii) the respective responsibilities of each of the agencies participating in the program will be established; and (iii) the pro forma agreement that will be used with the participating municipalities will be adopted (paragraph 3.9).
- (v) As an exception to the above, up to US\$300,000 may be disbursed once the conditions precedent indicated in Article 4.01 of the General Conditions with respect to the following have been met: (a) the legal report; (b) designation of officials; and (c) the chart of accounts for startup of the program with the priority activities (paragraph 3.22).

*Before the Bank can authorize the executing agency to proceed with the first call for bids for the studies on establishment of the Cadastre and its reconciliation with the Registry in nine of the total 13 cadastral areas in Costa Rica, the mid-term evaluation, for which the borrower must submit evidence that it has substantially met the following goals, must be carried out (paragraph 3.23):*

- (i) The Real Property Department has been established, the graphic and legal property descriptions have been standardized, and the real property rights pertaining to each parcel in the Registry have been filed, as duly formalized and published by means of laws and the respective regulations (paragraph 2.6).
- (ii) The requirement that all property rights, including mortgages, encumbrances and concessions, be recorded in the Real Property Registry has been established, and the penalties for noncompliance stipulated, as duly formalized and published by means of laws and the respective regulations (paragraphs 2.7 and 2.8).
- (iii) The operational and professional guidelines, codes of ethics, penalties and Registry procedures have been strengthened to ensure that notarial and land surveying services are properly performed, as duly formalized and published by means of laws and the respective regulations (paragraph 2.9).
- (iv) At least three of the four cadastral areas in the country have been established and included in the first stage of implementation of the subcomponent for the establishment of the Cadastre and its reconciliation with the Registry, as duly published in *La Gaceta*.
- (v) The findings of the census data analysis and consultations have been completed and action plans have been prepared to implement the pilot programs in areas under special regimes. If necessary, an action plan for involuntary resettlement in the first four cadastral areas will be included, in accordance with the applicable local legislation and Bank policy (paragraph 2.27).<sup>2</sup>

*As a result of the mid-term evaluation, a work plan and monitoring program will be agreed upon, to be reviewed annually during the remaining program execution period (paragraph 3.24), to ensure that the objective agreed upon are attained with respect to the conditions*

---

<sup>2</sup> For the Maritime Land Zone, this condition will only apply to the areas located in the first four cadastral areas.

*and targets referred to in paragraph 3.18. Within 12 months after program completion, the borrower will submit an ex post evaluation report to the Bank (paragraph 3.24).*

**Social and poverty sector classification:**

This program does not qualify as a social equity-enhancing project, as described in the key objectives for the Bank's activity in the Report on the Eighth General Increase in Resources (document AB-1704).

**Exceptions to Bank policy:**

An exception to the Bank policy is requested for recognition of counterpart expenditures incurred for aerial photography of the country's rural areas and initial processing, and studies on aerotriangulation and geodetic network density, and procured, at a cost of US\$2 million, between 1998 and June 1999, that is, prior to 18 months before approval of the proposed project by the Board of Executive Directors, the period authorized according to Bank policy, provided that procedures and requirements substantially similar to those set forth in the loan contract have been complied with (see paragraph 3.21).

**Recognition of previous expenditures:**

It is proposed that up to the equivalent of US\$1.5 million in expenses incurred for outfitting offices and procuring computer hardware and software for geographic information systems for the agencies participating in the program, compilation of background information and preparation of project briefs, file reconciliation, digital mapping and field surveys of the physical characteristics of the buildings for purposes of assessment for IFAM-supported municipal projects, prior to the date of approval of the respective resolution by the Bank's Board of Executive Directors during the 18-month period prior to said resolution, be recognized as part of the local counterpart contribution, provided that procedures and requirements substantially similar to those set forth in the loan contract have been complied with (see paragraph 3.20).

**Procurement:**

The procurement of goods and the awarding of construction contracts will be carried out in accordance with the procedures set forth in Annex B to the loan contract. International competitive bidding will be required for the procurement of goods and services valued in excess of US\$250,000 and construction contracts for over US\$1 million. These thresholds are justified, taking into account that, in similar projects in the country, foreign bidders participated when the amounts were higher than the proposed thresholds.